

**TESTIMONY ON REAUTHORIZATION OF ELEMENTARY AND SECONDARY  
EDUCATION PROGRAMS FOR AMERICAN INDIANS  
GIVEN BEFORE  
THE SENATE COMMITTEE ON INDIAN AFFAIRS  
APRIL 26, 2000**

Mr. Chairman Campbell, Distinguished Senators of the Committee, Honored, Guests and staff,.

My name is Carmen Taylor, and I am the Executive Director of the National Indian School Board Association. The National Indian School Board Association (NISBA) was established in 1982 for the purpose of providing training, technical assistance, advocacy and networking opportunities. NISBA has nearly 100 member schools - contract and grant schools as well as BIA - operated. Our current president is Ted Lone from the Mandaree school located on the Fort Berthold Reservation in North Dakota. Our office is located on the campus of Salish Kootenai College, a tribally controlled college on the Flathead Reservation in western Montana.

Today, I would like to discuss the proposals to review and change the sections of P.L. 95-561 and P.L. 100-297 which establish and provide parameters for the 185 schools serving approximately 50,000 Indian students, which are funded by the Bureau of Indian Affairs. I come to you today to discuss recommended changes in these statutes which my organization has worked on for over 2 years. We have done so as part of a consortium of National and regional Indian education associations, and have also worked with individual schools and tribes to see that the recommendations we make have the broadest possible support.

We have worked closely with the Senate staff as they have prepared the two drafts they have released. We want to show our, sincere appreciation for the effort the staff has made in a

short period of time to review and weigh our proposals. We now feel there are staff within the Committee who care and are informed on these issues.

I have been asked to address two issues in particular, and shall do that. However, I will also add, as part of my submission for the oral testimony, a brief list of other areas in which my organization is concerned.

### **SCHOOL BOARD TRAINING**

When PL 95-561, the Education Amendments of 1978, established the framework for Bureau schools, it took the important step of elevating community school boards attached to Bureau schools from purely advisory entities to ones having statutory authorities and responsibilities. School Boards have been involved in establishing and implementing standards, constructing and monitoring financial plans, and making decisions in personnel matters. For the first time, under Assistant Secretary Forrest Gerard, the Bureau realized that school boards affiliated with Bureau schools needed training in a wide variety of areas. The Bureau initially funded this training under the technical assistance capacity, but it was not enough. Soon, the Congress recognized a need to institutionalize this training and established a set-aside under the funding formula for this purpose.

Another factor was also mandating more training for school boards. With the growth of contracting in the 1980s, and then the growth of grants schools in the 1990s, local communities and tribes were actually taking the policy, As well as the programmatic control over education under their wing. This meant a great need for local school board training for contract and grant schools in not only the Bureau programs, but general topics such as education standards, funding issues, school law, and organizational development and change.

During the 1980s, this training was established under a general training contract with the major Indian Education organizations. My own National Indian School Board Association, received the major contract, with component contracts given to the Association of Community Tribal Schools and the Navajo Area School Board Association. Training was conducted by a series of regional meetings and an annual major convening of all school boards in a central place. Information was general, and tailored to each, group by the subcontractor.

Over time, however, the needs have changed. With about two decades of school board training having been accomplished, we now find that most communities with school boards do have a "pool" of people in the community with knowledge on school board topics. What has arisen, however, is a need for more specialized services, support and training for each individual school. For instance, school board members may now understand the ideas of student performance review, but what they need is help on determining how to apply these concepts to their individual school program. For another example, the school board members may know about financial audits, but they may need help in determining which computer software will be best for their school, now and in the future.

It has not been an easy decision for my organization, or those others, but we have recommended, and House and Senate staff have accepted, doing away with the reserved set-aside for the national school board training. Instead, we have recommended that the dollars that were part of the set-aside be distributed through the formula. This results in a slight increase at each school site which school boards can use to procure site specific training to be determined by local needs. We have also recommended, and it has been accepted, that new members of a school board receive at least 40 hours of training in school policy, finance, legal issues and general roles

and responsibilities. Some States require school board training and: 'this is one way to maintain school board members which are current in pertinent issues which affect schools.

We know doing away with a guaranteed “pot” for organizations to depend upon may not be universally popular with our sister organizations. The organizations should shift their emphasis from a unified contract to providing more tailored services to their member schools. If we improve the services and products, to keep up with the legitimate demands of our constituencies, no organization will suffer. We ask that any request to reinstitute a national or regional training set-aside, thus taking the local decision away from the schools, please be resisted.

### **LOCAL CONTROL OF EDUCATION FUNCTIONS.**

One of the premier themes over the last three decades in Indian education has been the struggle of the tribes to obtain and exercise true input into and control over -Bureau funded education programs. The Indian Self-Determination Act, the Tribally Controlled Grant School Authority, and the changes in the Bureau system requiring input into Bureau controlled schools have been Congressionally initiated and are major steps forward. However, for each step forward, there has been a resistance from the Bureau, not through malice, but through the very human problem with an institution resisting change. The Bureau does not easily give up control over Indian lives.

We have an instant case in point. One of the areas tribes are most anxious to be involved in are the activities carried on by Bureau Area and Agency offices in support of education. These education activities, or functions, are conducted by Bureau personnel, ostensibly for the benefit of Bureau funded education programs. However, often the Bureau officials in these jobs do not consult with their clients or give them what they need. They set arbitrary amounts that each school is expected to contribute to Agency or Area wide activities (see the generally accepted

amount of \$10,000 - 20,000/year for technical assistance and training) whether a school receives services of that value or not. Currently the Bureau is expanding the number of staff located within education line offices for the purpose of providing technical assistance in the area of school reform.

These are generalists who are unable to meet the wide range of specific needs of each school. These decisions are better left to those at the tribal and school levels. Training and technical assistance should not be included in the "inherently Federal functions."

Theoretically, tribes may contract these functions from the Bureau under P. L. 93-638, the Indian Self-Determination and Education Assistance Act. However, as a reality, this is problematical. The Bureau has created a designation, called inherently federal functions, as a class of functions which may not be contracted. These are functions dealing with funding and oversight. Even agreeing with this designation as being an exception to contracting authority (and we do make such an agreement for the sake of this discussion) the Bureau refuses to give us a clear and uniform definition of this term, a listing of the functions and jobs covered and a central review spot for application to guarantee careful review. Additionally, to maintain control, the Bureau has taken these functions, and dispersed them to as many personnel as possible, thus arguing none of the positions may be contracted.

We come to the Congress again to ask for justice and a remedy. When the Five Civilized Tribes of Oklahoma asked in the mid 90s to contract some function in the Eastern Oklahoma Office, they were flatly refused any contracting. There are other such instances. We started this reauthorization cycle by supporting Senator McCain's call for "designer agencies and Areas – letting the tribes establish the makeup and structure of the Bureau to meet their needs. However,

we now see this may be too radical, since it seemed many tribes were afraid the Bureau would use this to trigger mass bureaucratic cutbacks.

Instead, we are asking for a simple amendment to P.L. 95-561, which will clarify the Self-Determination contracting by 1) stating that such contracting is permissible; 2) stating that it is at the tribal option and clarifying which parties may undertake to contract; 3) Give a uniform definition to the term "inherent federal function"; and 4) telling the Bureau to combine jobs to the greatest extent to make more positions contractible. The provision we propose follows:

"All functions related to education located at the Agency or Area level and Performed by an education line officer shall be subject to contract under the Indian Self Determination and Education Assistance Act (P.L. 93-638), unless determined to be inherently Federal functions. No function shall be determined to be inherently Federal unless it involves fund distribution, student enrollment verification, grant application or contract for operation of a Bureau program acceptance, or a report required by other provision of law to be filed by a Federal agency. To the maximum extent possible, the Secretary shall consolidate these inherently Federal functions into one position to facilitate the intent of this provision. The contracts under this paragraph shall be made with the school board or the majority of the school boards of an agency or Area, or, at the option of the tribe, with the tribe whose children are being served by the education program within the agency or Area. To the extent more than one tribe is being served by an agency or Area, the contract shall be made with a consortium involving at least the majority of such tribes."

This language will open one of the last closed policy and program areas to tribal input and control. Let us be clear – it creates a tribal option. If tribes wish to maintain the status quo, so be it. This gives the tribes a tool to tailor local services to local needs. If tribes can better meet the needs by contracting, this will provide the vehicle.

It will mean many school boards and/or tribes and tribal departments of education, will take over such areas as technical assistance, training and procurement for their own schools, providing increased service and control to the entire Indian community. It will mean a

continuation of Bureau oversight and monitoring in the all important areas of accountability, without intrusive Bureau presence. We ask that it be accepted.

## **TRIBAL DEPARTMENTS OF EDUCATION**

Before I close, I would also like to state we support tribal departments of education. As tribes become more sophisticated and more involved in the education of their students, a logical progression of the concept of sovereignty is to develop tribal departments of education. They can serve in training, policy, and development support capacities with respect to educators, parents, communities and tribal officials. It is time to give them our support.

## **CONCLUSION**

I thank you again for allowing me to testify today. For over two decades, the Committee on Indian Affairs of the U.S. Senate has been a shield for Indian people. We ask you once again for your assistance.